



COMMUNITY DEVELOPMENT DEPARTMENT

PLANNING DIVISION

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CITY OF NEWPORT BEACH ZONING ADMINISTRATOR STAFF REPORT

January 11, 2012

Agenda Item 2

SUBJECT: Chaba Thai Massage and Spa – PA2011-202
1000 North Bristol Street, Suite 19
Minor Use Permit No. UP2011-033

APPLICANT: Michael and Somporn Guenther

PLANNER: Fern Nueno, Assistant Planner
(949) 644-3227

ZONING DISTRICT/GENERAL PLAN

PC-11 (Newport Place – General Commercial Site 3)/ CG (General Commercial)

PROJECT SUMMARY

The applicant proposes a Minor Use Permit for a massage establishment located in a 1,200 square-foot suite within an existing shopping center. The proposed establishment will provide five (5) massage rooms, a restroom, a shower, a reception/waiting area, and a utility room. The proposed hours of operation are from 10:00 a.m. to 9:00 p.m., daily. A maximum of seven (7) employees will be on duty at all times.

RECOMMENDATION

- 1) Conduct a public hearing; and
- 2) Adopt Draft Zoning Administrator Resolution No. _____ approving Minor Use Permit No. UP2011-033, subject to findings and conditions (Attachment No. ZA 1).

DISCUSSION

- The project will be located in a vacant retail space previously occupied with a skin care facility, within the Plaza Newport shopping center. The center is developed with four (4) multi-tenant buildings and a surface parking lot with 222 spaces.

- The proposed use is typical for this type of shopping center development and is consistent with the land uses permitted within the PC-11 (Newport Place) Zoning District and the General Commercial (CG) General Plan Land Use Element category.
- The subject property is located within General Commercial Site 3 of the Newport Place Planned Community. Pursuant the PC-11 Development Plan Part II (Commercial), Section II (Permitted Uses), Group II (Commercial Uses), F (General Commercial), General Commercial sites allow for commercial uses such as retail, restaurant, hobby stores, professional services, offices, and other uses of similar nature. A massage establishment is a general commercial use of similar nature to the allowed retail and services uses and is an allowed use with the approval of a Minor Use Permit.
- General Commercial Site 3 has a “blended” parking requirement of one (1) space for every 250 square feet of net floor area and one (1) loading space for every 10,000 square feet of gross floor area. The blended parking rate assumes a mix of uses, which allows a change in use of a tenant suite without affecting the parking requirement for the overall site.
- The project is compatible with existing and allowed uses within the shopping center. Other uses in the shopping center include restaurants, hair and nail salons, mail services, health/fitness facility, and retail uses.

ENVIRONMENTAL REVIEW

The project qualifies for a Class 1 (Existing Facilities) categorical exemption of the California Environmental Quality Act because it involves interior alterations to convert vacant space previously used as skin care to a massage establishment.

PUBLIC NOTICE

Notice of this application was mailed to all owners of property within 300 feet of the boundaries of the site (excluding intervening rights-of-way and waterways) including the applicant and posted on the subject property at least 10 days prior to the decision date, consistent with the provisions of the Municipal Code.

APPEAL PERIOD

Minor Use Permit applications do not become effective until 14 days following the date of action. Prior to the effective date, the applicant or any interested party may appeal the decision of the Zoning Administrator to the Planning Commission by submitting a written appeal application to the Community Development Director. For additional information on filing an appeal, contact the Planning Division at 949-644-3200.

Submitted by:



Fern Nueno, Assistant Planner

GBR/fn

Attachments: ZA 1 Draft Resolution
 ZA 2 Vicinity Map
 ZA 3 Project Plans

Attachment No. ZA 1

Draft Resolution

RESOLUTION NO. ____

**A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE
CITY OF NEWPORT BEACH APPROVING MINOR USE PERMIT
NO. UP2011-033 FOR A MASSAGE ESTABLISHMENT
LOCATED AT 1000 NORTH BRISTOL STREET (PA2011-202)**

THE ZONING ADMINSTRATOR OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Michael and Somporn Guenther, Chaba Thai Massage and Spa, with respect to property located at 1000 North Bristol Street, Suite 19, and legally described as Parcel 1 of Resubdivision 0541, requesting approval of a Minor Use Permit.
2. The applicant requests a Minor Use Permit for a massage establishment located in a 1,200 square-foot suite within an existing shopping center. The center is developed with four (4) multi-tenant buildings and a surface parking lot with 222 spaces.
3. The subject property is located within the PC-11 (Newport Place – General Commercial Site 3) Zoning District and the General Plan Land Use Element category is CG (General Commercial).
4. The subject property is not located within the coastal zone.
5. A public hearing was held on January 11, 2012, in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this meeting.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project has been determined to be categorically exempt under the requirements of the California Environmental Quality Act, pursuant to Section 15301 (Class 1 – Existing Facilities).
2. Class 1 exempts minor alterations to existing facilities that involve negligible expansion of the use. This project involves an interior remodel of an existing commercial space and a change in use from a skin care facility to a massage establishment, which is a negligible expansion of use.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 20.52.020.F (Findings and decision) of the Newport Beach Municipal Code, the following findings and facts in support of the findings for a use permit are set forth:

Finding

A. *The use is consistent with the General Plan and any applicable specific plan.*

Facts in Support of Finding

1. The General Plan land use designation for this site is CG (General Commercial). The CG designation is intended to provide for the a wide variety of commercial activities oriented primarily to serve citywide or regional needs. The massage establishment is consistent with this land use designation. The use will serve residents, visitors, and the workforce in the area.
2. The subject property is not part of a specific plan area.

Finding

B. *The use is allowed within the applicable zoning district and complies with all other applicable provisions of this Zoning Code and the Municipal Code.*

Facts in Support of Finding

1. The site is located in the PC-11 (Newport Place Planned Community) Zoning District within General Commercial Site 3. Pursuant the PC-11 Development Plan Part II (Commercial), Section II (Permitted Uses), Group II (Commercial Uses), F (General Commercial), General Commercial sites allow for commercial uses such as retail, restaurant, hobby stores, professional service uses, and offices. A massage establishment is a general commercial use that is allowed at the subject location.
2. Pursuant to Section 5.50.010 (Definitions), a massage establishment means any business conducted within the City of Newport Beach where any person, firm, association, partnership, corporation, or combination of individuals engages in, conducts, carries on or permits to be conducted or carried on, for money or any other consideration, administration to another person of a massage, bath or health treatment involving massages or baths.
3. The massage establishment use is consistent with the legislative intent of Section 20.48.120 (Massage Establishments and Services) of the Municipal Code, which provides standards for the establishment, location, and operation of massage establishments operated as an independent use, in addition to the standards in Chapter 5.50 (Massage Establishments). These standards are intended to

promote operation of legitimate massage services and to prevent problems of blight and deterioration, which accompany and are brought about by large numbers of massage establishments that may act as fronts for prostitution and other illegal activity. The massage establishment is not located within 500 feet of a public or private school, park or playground, civic center, cultural site, religious institution, or another massage establishment.

4. General Commercial Site 3 has a “blended” parking requirement of one (1) space for every 250 square feet of net floor area and one (1) loading space for every 10,000 square feet of gross floor area. A change in use of a tenant suite does not affect the parking requirement for the overall site. The site is developed with a surface parking lot with 222 parking spaces.

Finding

- C. *The design, location, size, and operating characteristics of the use are compatible with the allowed uses in the vicinity.*

Facts in Support of Finding

1. The allowed uses in the vicinity include retail, restaurant, hobby stores, book and office support stores, travel agencies, home furnishing stores, athletic clubs, personal services, offices, and mixed-use.
2. The proposed project involves interior alterations to convert vacant retail space within the Plaza Newport shopping center to a massage establishment use. The suite is 1,200 square feet and is located within a multi-tenant building. The shopping center is located within a commercial area with residential uses (across State Route 73) and the John Wayne Airport nearby. The shopping center fronts Bristol Street and State Route 73. The project is compatible with existing and allowed uses within the shopping center. Other uses in the shopping center include restaurants, hair and nail salons, mail services, health/fitness facility, and retail uses.
3. The operational characteristics of the use are that of a massage establishment, which is a typical use in these types of shopping centers. The proposed establishment will provide five (5) massage rooms, a restroom, a shower, a reception/waiting area, and a utility room. The proposed hours of operation are from 10:00 a.m. to 9:00 p.m. A maximum of seven (7) employees will be on duty at all times. The operating characteristics of the use are compatible with the allowed and existing uses in the vicinity.

Finding

- D. *The site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities.*

Facts in Support of Finding

1. The shopping center property is approximately 602 feet by 283 feet (170,366 square feet in area), and is developed with four (4) multi-tenant buildings and a surface parking lot with 222 spaces. The existing building and parking lot have functioned satisfactorily with the current configuration. The lot fronts North Bristol Street and has two (2) vehicular access points into and out of the shopping center.
2. Adequate public and emergency vehicle access, public services, and utilities are provided within the existing property and the proposed project will not negatively affect emergency access.

Finding

- E. Operation of the use at the location proposed would not be detrimental to the harmonious and orderly growth of the City, or endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, a safety, or general welfare of persons residing or working in the neighborhood of the proposed use.*

Facts in Support of Finding

1. The proposed use will not operate with late hours, which will help minimize potential detrimental effects on the surrounding area.
2. The shopping center is not located within an area with problems of blight and deterioration.
3. The proposed massage establishment will help revitalize the project site and provide an economic opportunity for the property owner to lease the tenant space. Additionally, the establishment will provide additional services to the residents and visitors in the surrounding area.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Use Permit No. UP2011-033, subject to the conditions set forth in Exhibit A, which is attached hereto and incorporated by reference.
2. Minor Use Permit applications do not become effective until 14 days following the date of action. Prior to the effective date, the applicant or any interested party may appeal the decision of the Zoning Administrator to the Planning Commission by submitting a written appeal application to the Community Development Director. For additional information on filing an appeal, contact the Planning Division at 949-644-3200.

PASSED, APPROVED, AND ADOPTED THIS 11TH DAY OF JANUARY, 2012.

By: _____
Brenda Wisneski, AICP, Zoning Administrator

draft

EXHIBIT "A"**CONDITIONS OF APPROVAL**

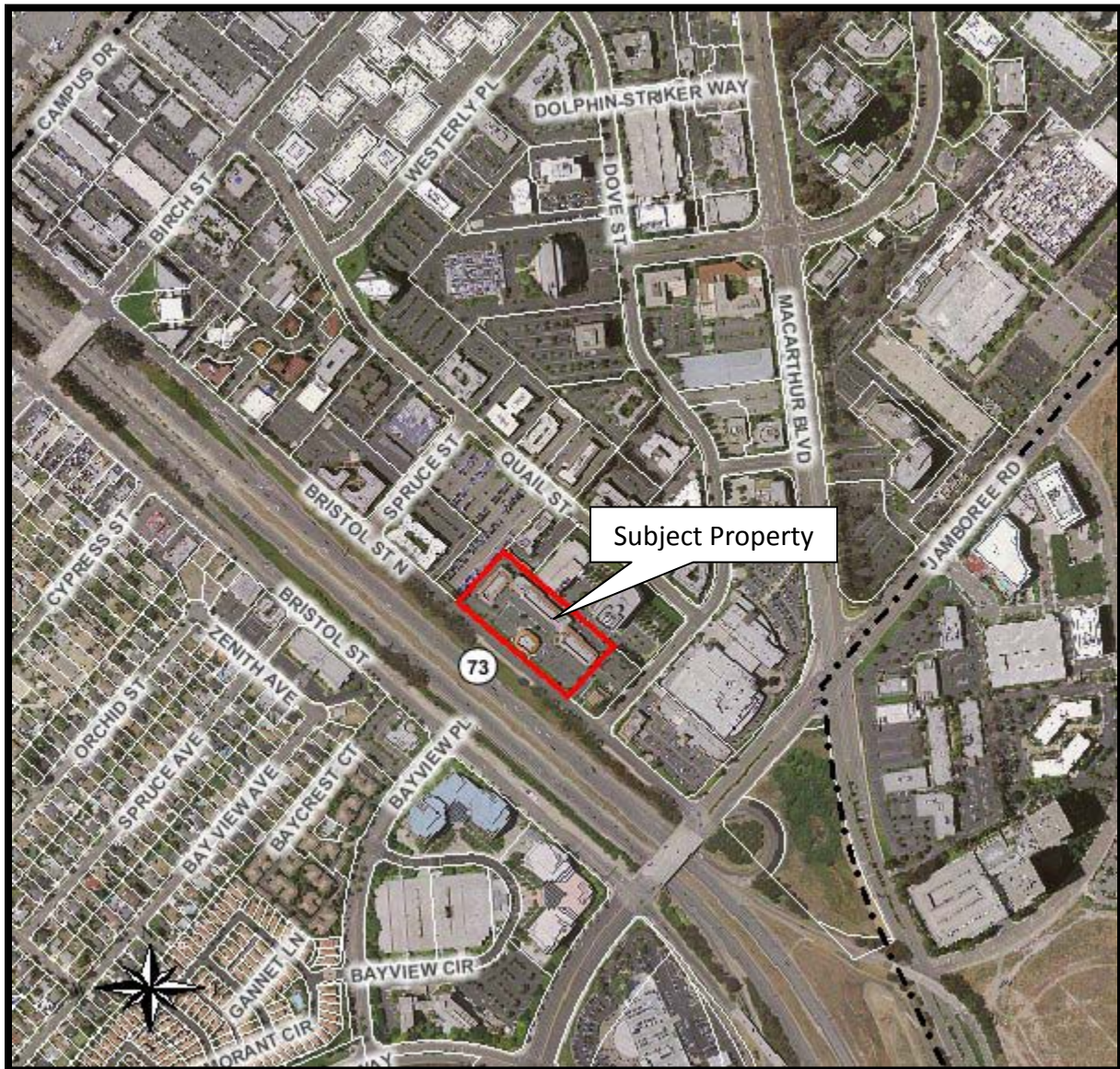
1. The development shall be in substantial conformance with the approved site plan and floor plan dated with this date of approval (except as modified by applicable conditions of approval).
2. This Minor Use Permit may be modified or revoked by the Zoning Administrator should he/she determine that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
3. Any change in operational characteristics, hours of operation, expansion in area, or other modification to the approved plans, shall require an amendment to this Minor Use Permit or the processing of a new Minor Use Permit.
4. This approval was based on the particulars of the individual case and does not in and of itself or in combination with other approvals in the vicinity or Citywide constitute a precedent for future approvals or decisions.
5. Minor Use Permit No. UP2011-033 shall expire unless exercised within 24 months from the date of approval as specified in Section 20.54.060 (Time Limits and Extensions) of the Newport Beach Zoning Code, unless an extension is otherwise granted.
6. Should this business be sold or otherwise come under different ownership, any future owners or assignees shall be notified in writing of the conditions of this approval by the current owner or leasing company.
7. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
8. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Use Permit.
9. A copy of this resolution shall be incorporated into the Building Division and field sets of plans prior to issuance of the building permits.
10. Prior to the issuance of building permits, the shower, massage room doors, door hardware, and reception counter design shall be shown to comply with accessibility requirements.
11. The hours of operation are limited to between 10:00 a.m. to 9:00 p.m., daily.

12. A maximum of seven (7) employees are permitted to be on duty at any given time.
13. A valid business license from the City of Newport Beach with sellers permit shall be required prior to start of business. Any contractors/subcontractors doing work at the subject site shall be required to obtain a valid business license from the City of Newport Beach prior to the commencement of any work on the subject site.
14. Any technicians working as independent contractors shall obtain their own City business license.
15. The applicant shall adhere to all provisions set forth in SB 731 and 4600 Business and Professions Code, relating to operating a massage establishment.
16. Should the massage establishment employ technicians that are not California Massage Therapy Council (CAMTC) certified, a City Massage Operators Permit shall be obtained.
17. Prior to the final of building permits, proof that all technicians are CAMTC certified shall be required, unless a City Massage Operators Permit is first obtained. All technicians are required to maintain certification and shall present proof upon request by the City.
18. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of **Chaba Thai Massage and Spa** including, but not limited to **Minor Use Permit No. UP2011-033 (PA2011-202)** and the determination that the project is exempt under the requirements of the California Environmental Quality Act. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

Attachment No. ZA 2

Vicinity Map

VICINITY MAP



Minor Use Permit No. UP2011-033
PA2011-202

1000 North Bristol Street, Suite 19

Attachment No. ZA 3

Project Plans

CHABA THAI MASSAGE & SPA

1000 BRISTOL STREET NORTH SUITE 19
NEWPORT BEACH, CA 92660

APN # 427-241-04

PROJECT DESCRIPTION

CHANGE THE USE OF EXISTING BUILDING
* CHANGE OF USE FROM 'RETAIL' TO MASSAGE PARLOR WHERE ANY PERSON WHO PROVIDES MASSAGE SERVICES AT THIS PREMISE SHALL BE CERTIFIED AS A MASSAGE THERAPIST OR MASSAGE PRACTITIONER PURSUANT TO CALIFORNIA BUSINESS AND PROFESSIONAL SECTION 4600 ET SEQ *

SHEET INDEX

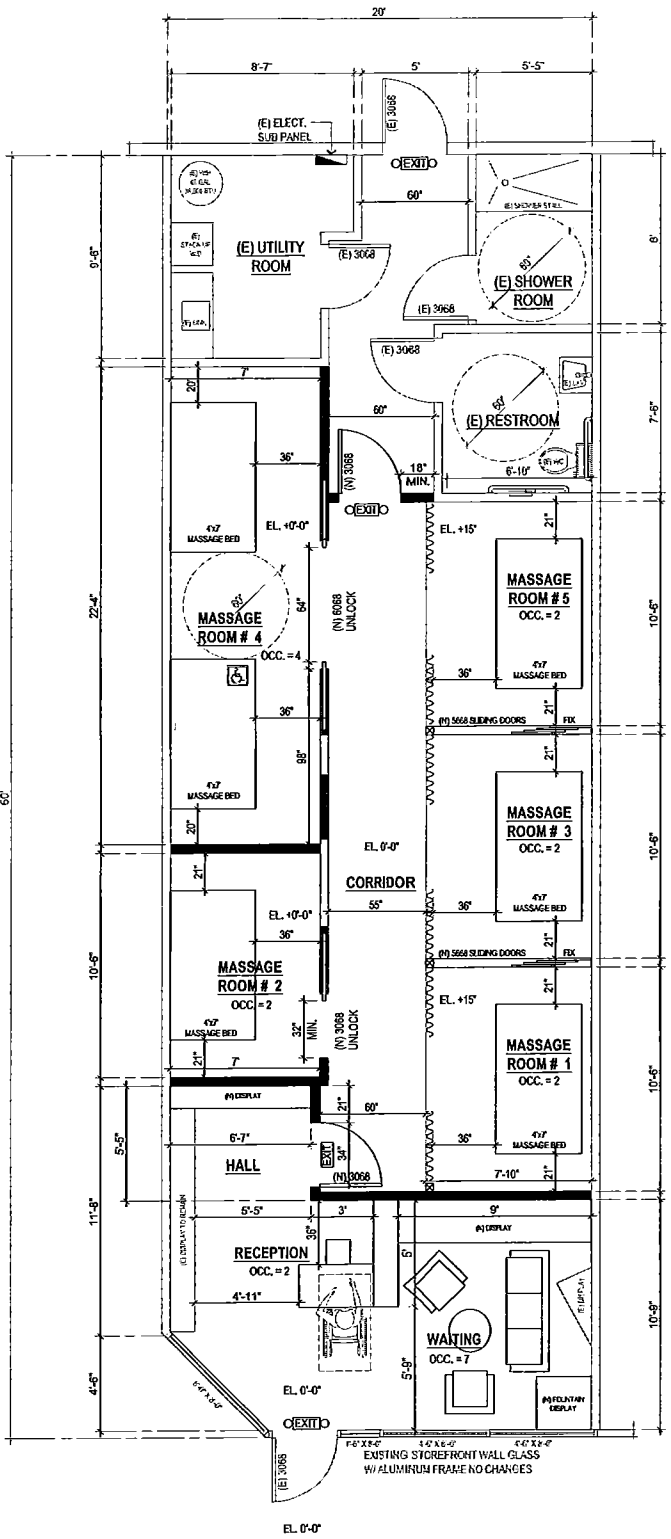
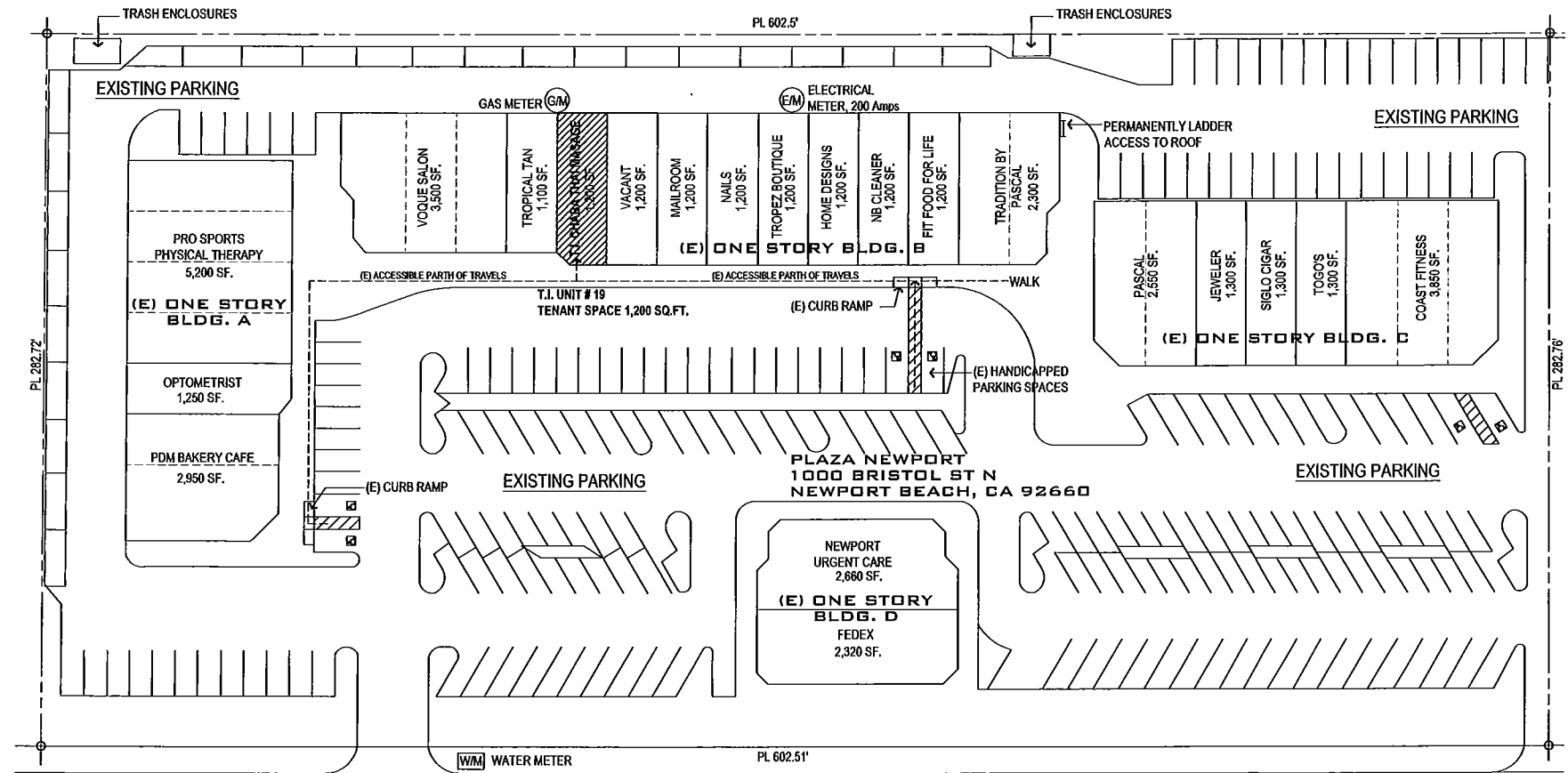
A-1.0 TITLE SHEET AND PLOT PLAN, PROPOSED FLOOR PLAN

VICINITY MAP



PROJECT INFORMATION

PROJECT TITLE: CHABA THAI MASSAGE & SPA
PROJECT LOCATION: 1000 BRISTOL ST. N SUITE 18
NEWPORT BEACH, CA 92660
APN #: 427-241-04
ZONE: CG
OCCUPANCY GROUP: B
CONSTRUCTION TYPE: V-B
FIRE SPRINKLERS: YES
SQUARE FOOTAGE: 1,200 SQ. FT.
EXISTING OCCUPANCY: SKIN CARE CLINIC
PROPOSED OCCUPANCY: MASSAGE PARLOR
BUSINESS OWNER/OPERATOR: SOMPORN GUENTHER
CHABA THAI MASSAGE AND SPA
1920 HARBOR BLVD.
COSTA MESA, CA 92627
(949) 722-9111
BUILDING OWNER: THE WOLOSON COMPANY
1603 EMERALD BAY
LAGUNA BEACH, CA 92651
PHONE: (949) 497-5407 x 18
FAX: (949) 376-2197
www.wolosonco.com



PROPOSED FLOOR PLAN
SCALE 1/4" = 1'-0"

| WALL LEGEND | |
|-------------|---------------------------------------------------------------------|
| | INDICATED EXISTING WALL TO REMAIN |
| | INDICATED NEW FULL HIGH SOLID WALL TO BE CONSTRUCTION (10'-0" HIGH) |
| | INDICATED NEW 7' HIGH LINEN CURTAIN |

PA2011-202 for UP2011-033
1000 N. Bristol Suite 19
Michael and Somporn Guenther

PLOT PLAN
SCALE 1" = 30'



EXISTING PARKING
STANDARD 216 SPACES
HANDICAPPED 6 SPACES
TOTAL 222 SPACES

| Project Name | | Date |
|-----------------------------------------------------------------------------------------------------------------|--|------------|
| CHABA THAI MASSAGE & SPA | | 11/06/2011 |
| Address: 1000 BRISTOL ST. N. SUITE 19 NEWPORT BEACH, CA 92660 APN# 427-241-04 | | |
| Drawn By: SG | | |
| Scale: AS NOTED | | |
| Sheet No. | | |
| A-1.0 | | |
| Prepared & Drafting | | |
| SOMMA GATTAREE 2000 E. PALMDR # 344 FULLERTON, CA 92631 TEL: (714) 515-0381 Email: sommae@gmail.com | | |
| Revisions: | | |
| Description | | |